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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9 WESTERN DIVISION
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11 DAVID ACOSTA,) No. CV 10-00822-SJO (VBK)
12)
13) Petitioner,) ORDER (1) ACCEPTING AND ADOPTING
14) THE REPORT AND RECOMMENDATION OF
15) THE UNITED STATES MAGISTRATE
16) JUDGE, AND (2) DISMISSING THE
17) PETITION FOR WRIT OF HABEAS
18) CORPUS
19)
20) Respondent.)
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17 Pursuant to 28 U.S.C. §636, the Court has made a de novo review
18 of the Petition for Writ of Habeas Corpus ("Petition"), Respondent's
19 Answer, Petitioner's Traverse, all of the records herein and the
20 Report and Recommendation of the United States Magistrate Judge
21 ("Report").

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1 **IT IS ORDERED** that: (1) the Court accepts and adopts the Report
2 and Recommendation, (2) the Court declines to issue a Certificate of
3 Appealability ("COA");¹ and (3) Judgment be entered denying and
4 dismissing the Petition with prejudice.

5 9/14/10

6 *S. James Otero*

7 DATED: _____

8 S. JAMES OTERO
9 UNITED STATES DISTRICT JUDGE

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21 ¹ Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the
22 applicant has made a substantial showing of the denial of a
23 constitutional right." The Supreme Court has held that, to obtain a
24 Certificate of Appealability under §2253(c), a habeas petitioner must
25 show that "reasonable jurists could debate whether (or, for that
26 matter, agree that) the petition should have been resolved in a
27 different manner or that the issues presented were 'adequate to
28 deserve encouragement to proceed further'." Slack v. McDaniel, 529
U.S. 473, 483-84, 120 S.Ct. 1595 (2000)(internal quotation marks
omitted); see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct.
1029 (2003). After review of Petitioner's contentions herein, this
Court concludes that Petitioner has not made a substantial showing of
the denial of a constitutional right, as is required to support the
issuance of a COA.